

NOTICE OF INDEPENDENT REVIEW DECISION

Date: July 29, 2003

RE: MDR Tracking #: M2-03-0744-01-ss
IRO Certificate #: 5242

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to ___ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by an Orthopedic Surgeon reviewer who is board certified in Orthopedic Surgery. The Orthopedic Surgeon reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

Claimant reportedly sustained a compensable injury to the back on ___. Notwithstanding the lack of any electrodiagnostic studies supporting a diagnosis of radiculopathy, the claimant underwent a microdiscectomy at L4-5 on 7/15/99. Afterwards, radiographic studies identified a "protrusion" at L4-5. Claimant now suffers from chronic back pain.

Requested Service(s)

Two-level lumbar fusion at L4-5 and L5-S1.

Decision

I agree with the insurance carrier that the requested intervention is not medically necessary.

Rationale/Basis for Decision

Claimant's pain generator site is not clearly identified. There is no documentation at any time during this claimant's treatment of electrodiagnostic studies supporting a diagnosis of radiculopathy. Regarding the discogram performed on January 17, 2003, report indicates that at L5-S1, the patient gave no evidence or report of pain. At the end of the procedure, the patient reported a sharp pain above the "tailbone." There is no indication in the report of a clearly concordant pain response at L5-S1. At L4-5, claimant states that the injection caused pain but explained that this was something she gets but is not the sharp, stabbing pain that she told the examiner about yesterday.

The report does not indicate a strongly concordant pain response at L4-5. As to the anatomical findings at the time of the discogram, at L4-5 contrast spread throughout the disc to the anulus. There is no documentation of any tear of the anulus at L4-5. At L5-S1, there is noted to be a small, central-posterior anular tear. The anular tear is noted at the disc level where the claimant had no clear documentation of concordant pain during the injection. In summary, the highly subjective study of January 17, 2003, does not support the medical necessity of a two-level lumbar fusion.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

If disputing a spinal surgery prospective decision a request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings within **10** (ten) days of your receipt of this decision (20 Tex. Admin. Code 142.5(c)).

If disputing other prospective medical necessity (preauthorization) decisions a request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This Decision is deemed received by you 5 (five) days after it was mailed (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Workers' Compensation Commission, P.O. Box 40669, Austin, Texas, 78704-0012. **A copy of this decision should be attached to the request.**

The party appealing the decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute (Commission Rule 133.308 (t)(2)).

This decision by the IRO is deemed to be a TWCC decision and order.